

Domestic Relations Committee
Judicial Conference of Indiana

Minutes
October 21, 2005

The Domestic Relations Committee met at the Indiana Judicial Center in Indianapolis, Indiana on Friday, October 21, 2005 from 10:30 a.m. – 3:15 p.m.

1. Members present. David C. Chapleau, Mary Margaret Lloyd, Robyn L. Moberly, Nanette Raduenz, Nicholas L. South, and Michael P. Scopelitis, Chair.
2. Staff present. Jeffrey Bercovitz provided the committee with staff assistance.
3. Guests present. Thelzeda Moore, Manager, Grants and Community Outreach, Child Support Bureau, Indiana Department of Child Services; and Bob Monday, Parents and Children Equality (PACE).
4. Minutes approved. The minutes of the August 19, 2005 meeting were approved.
5. Domestic Relations Benchbook.
 - a. Judge Chapleau distributed a revised draft of his materials on property division. Jeffrey Bercovitz distributed draft sections from Judge Moberly, McGillivray, and Judge Lloyd.
 - c. Members of the committee reviewed the materials from Judge Moberly on Child Custody.
 - d. Committee members agreed the assignments from the following members are due at the January meeting: Judge South, Judge Meier, Magistrate Raduenz, and Judge Bonfiglio. These assignments are due on January 10 in order to circulate to committee members in advance. Magistrate Raduenz agreed to add Contempt in Dissolution to her section.
 - e. Members of the committee discussed whether the Benchbook should be more of a treatise or something to be used on the bench. They also discussed whether a permanent Domestic Relations Benchbook is needed. They agreed to wait until the book is completed before making any recommendations on a permanent committee.
6. Presentation by Thelzeda Moore.
 - a. Thelzeda Moore, Manager, Grants and Community Outreach, Child Support Bureau, Indiana Department of Child Services discussed a potential program to increase child support payments from inmates released from prison. She would like to partner with courts for this project. The program would help recently released inmates with housing, food, health problems and other obstacles facing returning fathers in order to increase support. She is seeking about \$5,000 to lay the groundwork for the program.

Judge Chapleau indicated child support could not be modified while offender is in prison. Often the prosecutor pushes collection of arrearages. Ms. Moore will contact other agencies to support this program. Jeffrey Bercovitz reported the Allen County Reentry Court under Judge Surbeck indicated strong interest in this project and a pilot program.

Committee members believe this is a great idea and agreed to complete a contact sheet for service providers in their county and send it to Ms. Moore. They invited Thelzeda Moore back to the committee when a pilot program is prepared.

b. Thelzeda Moore circulated information about the Title IV-D magistrate program to committee members for their information.

c. Members of the committee invited Wendy Yerkes, Director, Child Support Bureau to the next meeting of the committee on January 20, 2006.

7. Proposed legislation. Judge Moberly, a member of the legislature's Child Custody and Support Advisory Committee gave a report of their recent meeting. She circulated PD 3248 concerning relocation of children in dissolution cases for review by the committee. Jeffrey Bercovitz distributed the American Academy of Matrimonial Lawyers Model Act on this topic. Committee members made the following comments:

a. The provision for notice if the move is 100 miles or more needs review. Should it be 75 miles? Should it be the move of any parent further away from the child?

b. Should notice occur if the child is moved across the state line? What if the move is to Niles, MI or Louisville, KY, just across the line?

c. Should any relocation of the child trigger the notice? Minimal relocations would not come to court.

d. Should notice of a move be given to each grandparent? Should notice go to anyone with court-ordered parenting time?

e. A party seeking custody is included in Section 2 and in Section 3 a nonrelocating parent is mentioned. Why?

f. What is the relocation issue to be litigated? This act is tailored to be the relocation of a child. What about notice of relocation of a parent? Should this be a separate issue and statute?

g. How will this act apply in shared physical custody or in joint custody cases?

h. The general attorney fee statute, Ind. Code 31-15-10-1 in dissolution cases should apply, not a different one as proposed in Section 1 (c) of this act.

i. The days required for notice is required is fine; however, this Section 3 (b) is hard to read and should be revised to make easier to read.

j. Section 4 of the proposed act concerns the disclosure of confidential information. A procedure similar to Ind. Code 34-26-5-7 for protection orders should be used since it is already familiar to courts, attorneys and litigants.

k. In Section 4 of the proposed act, concern was expressed about the use of *ex parte* hearings and the lack of notice given.

l. How is good faith defined in Section 5 (c) of the proposed act? Subjective or objective?

m. How long should a temporary order last under Section 6 (a) of the act? Does it prevent a judge from issuing a permanent order?

o. If grandparents do receive notice, does this put Troxel in play, and how much weight should be given to grandparent issues? Could they seek modification of grandparent visitation time?

Committee members agreed to convey these issues to the Child Custody and Support Advisory committee and recommend these issues for further study.

8. Next meeting dates. Committee members agreed to meet again on the following dates: The November meeting will be held November 17-18, in conjunction with the Domestic

Relations workshop. The committee will meet again on January 20, February 17, March 17, April 21, May 19, July 21, and August 18, 2006 from 10:30 a.m. until 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law